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**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**PORLAND DIVISION**

LAURA SNYDER,

Plaintiffs,

v.

KAISER FOUNDATION HOSPITALS, a California corporation, MEDTRONIC USA, INC., an active Minnesota corporation, PHILIPS NORTH AMERICA, LLC, an active foreign limited liability company, COVIDIEN HOLDINGS, INC., formerly known as COVIDIEN, INC., an active foreign limited liability company, COVIDIEN SALES, LLC, an active foreign limited liability company, and COFFEY MEDICAL, INC., an active Indiana corporation.

Defendant.

Case No. 3:18-cv-00332-YY

**DEFENDANT COFFEY MEDICAL, INC.'S ANSWER AND AFFIRMATIVE DEFENSES**

**DEMAND FOR JURY TRIAL**

In response to Plaintiff's Complaint, Defendant Coffey Medical, Inc. ("Coffey") hereby admits, denies, and alleges as follows:

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1.

The allegations of paragraph 1 are not directed at Coffey and, therefore, no response is required. To the extent that a response is required, Coffey admits that Kaiser Foundation Hospitals is a California corporation. Coffey is without sufficient knowledge or information to admit or deny the remaining allegations of paragraph 1 and therefore denies the same on information and belief.

2.

The allegations of paragraph 2 are not directed at Coffey and, therefore, no response is required. To the extent that a response is required, Coffey admits that Medtronic USA, Inc., is a Minnesota corporation with its principal place of business in Minnesota. Coffey is without sufficient knowledge or information to admit or deny the remaining allegations of paragraph 2 and therefore denies the same on information and belief.

3.

The allegations of paragraph 3 are not directed at Coffey and, therefore, no response is required. To the extent that a response is required, Coffey admits that Covidien Holdings, Inc. is a Delaware corporation with its principal place of business in Massachusetts. Coffey is without sufficient knowledge or information to admit or deny the remaining allegations of paragraph 3 and therefore denies the same on information and belief.

4.

The allegations of paragraph 4 are not directed at Coffey and, therefore, no response is required. To the extent that a response is required, Coffey admits that Covidien Sales, LLC, is a Delaware limited liability company with its principal place of business in Massachusetts. Coffey

is without sufficient knowledge or information to admit or deny the remaining allegations of paragraph 4 and therefore denies the same on information and belief.

5.

The allegations of paragraph 5 are not directed at Coffey and, therefore, no response is required. To the extent that a response is required, Coffey admits that Philips North America, LLC, is a Delaware limited liability company with its principal place of business in Massachusetts. Coffey is without sufficient knowledge or information to admit or deny the remaining allegations of paragraph 5 and therefore denies the same on information and belief.

6.

In response to paragraph 6, Coffey admits that it is an Indiana corporation with its principal place of business in Indiana. Coffey denies the remaining allegations of paragraph 6, including Plaintiff's allegation that Coffey sold or distributed the subject Philips Holter Monitor.

7.

Coffey is without sufficient knowledge or information to admit or deny the allegations of paragraph 7 and therefore denies the same on information and belief.

8.

Coffey is without sufficient knowledge or information to admit or deny the allegations of paragraph 8 and therefore denies the same on information and belief.

9.

Coffey is without sufficient knowledge or information to admit or deny the allegations of paragraph 9 and therefore denies the same on information and belief.

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10.

Coffey denies the allegations of paragraph 10 of Plaintiff's Complaint, including all subparts.

11.

Coffey denies the allegations of paragraph 11 of Plaintiff's Complaint, including all subparts.

12.

The allegations of paragraph 12 are not directed at Coffey and, therefore, no response is required. To the extent that a response is required, Coffey is without sufficient knowledge or information to admit or deny the allegations of paragraph 12 and therefore denies the same on information and belief.

13.

Coffey denies the allegations of paragraph 13 of Plaintiff's Complaint.

14.

Coffey is without sufficient knowledge or information to admit or deny Plaintiff's allegations regarding Plaintiff's alleged medical treatment and bills and therefore denies the same on information and belief.

15.

Except as expressly admitted, Coffey denies each and every allegation of Plaintiff's Complaint.

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## **AFFIRMATIVE DEFENSES**

By way of further answer to Plaintiff's Complaint, Coffey asserts the following affirmative defenses:

### **FIRST AFFIRMATIVE DEFENSE**

#### **(Failure to State a Claim For Relief)**

16.

Plaintiff's Complaint, in whole or in part, fails to state a claim for relief.

### **SECOND AFFIRMATIVE DEFENSE**

#### **(Statute of Repose)**

17.

Plaintiff's claims are barred by the statute of repose pursuant to ORS 30.905.

### **THIRD AFFIRMATIVE DEFENSE**

#### **(Statute of Limitations)**

18.

Plaintiff's claims are barred by the applicable statutes of limitations.

### **FOURTH AFFIRMATIVE DEFENSE**

#### **(Comparative Negligence)**

19.

Plaintiff's recovery is barred or, in the alternative, should be reduced by reason of Plaintiff's negligence and/or the negligence of third persons.

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**FIFTH AFFIRMATIVE DEFENSE**

**(Fault of Others)**

20.

Plaintiff's alleged injuries and damages were caused, in whole or in part, by acts or omissions of third parties over whom Coffey had no control.

**SIXTH AFFIRMATIVE DEFENSE**

**(Product Alteration and Modification)**

21.

To the extent that Plaintiff's allegations have any merit, such condition arose, and any resulting injury was caused by, misuse, modification, alteration and/or improper maintenance of the product by others.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Misuse)**

22.

Plaintiff's alleged injuries and damages were caused by misuse and/or abnormal use of the product.

**EIGHTH AFFIRMATIVE DEFENSE**

**(Failure to Mitigate)**

23.

Plaintiff is barred from recovering some or all of the alleged damages she seeks in the Complaint by virtue of her failure to take reasonable, necessary, appropriate and feasible steps to mitigate her alleged damages.

**NINTH AFFIRMATIVE DEFENSE**

**(Several Liability)**

24.

Coffey denies any liability to Plaintiff. However, if Coffey is liable at all, Coffey's liability is several only. Coffey is not liable or responsible for the fault of any other party against whom recovery is sought, or for the fault of any person with whom Plaintiff has or will settle.

**TENTH AFFIRMATIVE DEFENSE**

**(Not Product Seller/Lessor)**

25.

As an independent sales representative that was not the actual seller or distributor of the subject product, Coffey is not subject to strict liability under ORS 30.920.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Reservation of Affirmative Defenses)**

26.

Coffey does not knowingly nor intentionally waive any applicable affirmative defenses. Coffey reserves the right to assert additional defenses that it may discover in the course of discovery and investigation of this matter and to which Coffey may be entitled under the law, including case law, statutes and rules, of the jurisdictions whose law may be found to apply to the claims asserted.

WHEREFORE, Coffey prays for judgment as follows:

1. That Plaintiff's Complaint be dismissed and that judgment be awarded in favor of Coffey against Plaintiff;

2. That Coffey be awarded its reasonable costs and expenses incurred in this action, to the extent allowed by law; and
3. For such further relief as the court may deem just and equitable.

DATED: March 1, 2018.

MB LAW GROUP, LLP

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